

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE

Delvis Damian Villa Diaz

v.

Case No. 09-cv-12-SM

United States of America

ORDER

Although he labels his petition as one seeking habeas corpus relief under 28 U.S.C. Section 2241, it is in reality one seeking relief from his conviction and sentence, afforded under Section 2255. In that respect, the petition must be dismissed as an unauthorized second or successive petition - that is, one which the Court of Appeals has not authorized this court to consider. See 28 U.S.C. Section 2244(b)(3)(A); Ranieri v. United States, 233 F.3d 96, 99 (1st Cir. 2000). Petitioner filed a previous Section 2255 petition in Diaz v. United States, No. 07-cv-00081-SM, which was dismissed by order dated April 12, 2007. Petitioner may, of course, seek authorization to file a second petition, but he must do so in the United States Court of Appeals for the First Circuit, located in Boston, Massachusetts. The Petition is dismissed for want of jurisdiction.

SO ORDERED.

February 9, 2009


Steven J. McAuliffe
Chief Judge

cc: Delvis Damian Villa Diaz, pro se